



FEDERAL ELECTION COMMISSION
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2006 NOV 24 A 9:42

SENSITIVE

VIA FAX AND CERTIFIED MAIL

NOV 24 2006

Mr. Glenn M. Willard
Patton Boggs, LLP
2550 M Street, NW
Washington, DC 20037-1350

RE: MUR 5731
DeRossett for Congress and Lori
Jean Lobbetael, in her official
capacity as treasurer

Dear Mr. Willard:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, on April 13, 2006, the Federal Election Commission found reason to believe that your clients, DeRossett for Congress and Lori Jean Lobbetael, in her official capacity as treasurer, violated 2 U.S.C. § 441a-1(b)(1) and 11 C.F.R. § 400.21(b).

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that these violations have occurred.

The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of this matter. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your position on the issues and replying to the brief of the General Counsel. Three copies of your brief should also be forwarded to the Office of the General Counsel, if possible. The General Counsel's brief and any brief that you may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe a violation has occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All requests for extensions of time must be submitted in writing at least five days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not grant extensions greater than 20 days.

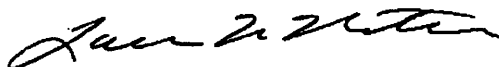
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A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90, days to settle this matter through a conciliation agreement.

Should you have any questions, please contact Mark A. Goodin, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,



Lawrence H. Norton
General Counsel

Enclosure
Brief

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1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2
3
4 In the Matter of)

5) MUR 5731

6 DeRossett for Congress and Lori Jean)

7 Lobbestael, in her official capacity as treasurer)
8

9 **GENERAL COUNSEL'S BRIEF**

10 **I. INTRODUCTION**

11 On April 13, 2006, the Federal Election Commission found reason to believe that
12 DeRossett for Congress and Lori Jean Lobbestael, in her official capacity as treasurer (the
13 "Committee"), violated 2 U.S.C. § 441a-1(b)(1) and 11 C.F.R. § 400.21(b). The Committee
14 untimely filed FEC Form 10, which was required to be filed when the candidate made
15 expenditures from personal funds that exceeded the threshold amount of \$350,000. Based on the
16 following analysis, this Office is prepared to recommend that the Commission find probable
17 cause to believe that DeRossett for Congress and Lori Jean Lobbestael, in her official capacity as
18 treasurer, violated 2 U.S.C. § 441a-1(b)(1).

19 **II. ANALYSIS**

20 Oscar Gene DeRossett was a candidate in the primary election for Congress from the
21 Seventh District of Michigan. Mr. DeRossett established the Committee as his principal
22 campaign committee and declared his intent to expend personal funds for the primary election
23 that exceeded the threshold amount by \$100,000. Statement of Candidacy for Mr. DeRossett
24 (Apr. 9, 2003); *see* 2 U.S.C. § 441a-1(b)(1)(B). Mr. DeRossett began to expend personal funds
25 for the primary election on April 8, 2003, by making a \$57,000 loan to the Committee. After
26 making two subsequent loans to the Committee, Mr. DeRossett made a fourth loan, in the
27 amount of \$230,000, to the Committee on March 31, 2004. This final loan resulted in

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1 Mr. DeRossett providing a total of \$451,000 of personal funds to the Committee, thereby
2 exceeding the \$350,000 threshold that triggers the requirement to file FEC Form 10 ("24-Hour
3 Notice of Expenditure from Candidate's Personal Funds") on that date. The Committee filed
4 FEC Form 10 on April 19, 2004, which was 18 days late. The Commission sent a Request for
5 Additional Information to the Committee on May 4, 2004, and, in response, the Committee
6 explained that it only became aware of its obligation to file FEC Form 10 on the date that the
7 Committee actually filed it.

8 When a candidate for the U.S. House of Representatives makes an aggregate expenditure
9 of personal funds with respect to an election in excess of \$350,000, the candidate or his or her
10 principal campaign committee must file a notification (FEC Form 10) within 24 hours of
11 exceeding that threshold.¹ See 2 U.S.C. § 441a-1(b)(1)(C); 11 C.F.R. § 400.21(b). The required
12 notification must be filed with the Commission, with each candidate in the same election, and
13 with the national party of each such candidate. 2 U.S.C. § 441a-1(b)(1)(F); 11 C.F.R.
14 § 400.21(b). Required notifications must include the date and amount of each expenditure from
15 personal funds since the last notification and the total amount of expenditures from personal
16 funds from the beginning of the election cycle to the date of the expenditure that triggered the
17 notification.² 2 U.S.C. § 441a-1(b)(1)(E); 11 C.F.R. §§ 400.24(b) and 400.23.

¹ An expenditure from personal funds includes loans by the candidate to his authorized committee using personal funds. 2 U.S.C. § 441a-1(b)(1)(A)(ii); 11 C.F.R. § 400.4(a)(2). A House candidate's personal expenditures could entitle his opponents to a threefold increase in the contribution limit under 2 U.S.C. § 441a(a)(1)(A) and a waiver of the limits on coordinated party expenditures under 2 U.S.C. § 441a(d). See 2 U.S.C. § 441a-1(a); 11 C.F.R. § 400.41. In fact, in response to the Committee's filing of FEC Form 10, four of Mr. DeRossett's opponents claimed entitlement to (and accepted) increased contributions. See FEC Form 11 of Clark Bisbee for Congress (Apr. 20, 2004), Schwarz for Congress (Apr. 20, 2004), Walberg for Congress (May 19, 2004), and Brad Smith for Congress (June 11, 2004) (improperly filed, as determined in MUR 5488).

² Once the candidate has exceeded the \$350,000 threshold, his principal campaign committee must also file notifications for each additional expenditure from personal funds exceeding \$10,000 in connection with the election. 2 U.S.C. § 441a-1(b)(1)(D); 11 C.F.R. § 400.22(b).

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As noted, Mr. DeRossett exceeded the \$350,000 threshold on March 31, 2004, which obligated the Committee to file an FEC Form 10 within 24 hours of the threshold expenditure, or by April 1, 2004. 2 U.S.C. § 441a-1(b)(1)(C) However, the Committee did not file a Form 10 until April 19, 2004. Therefore, this Office is prepared to recommend that the Commission find probable cause to believe that DeRossett for Congress and Lori Jean Lobbestael, in her official capacity as treasurer, violated 2 U.S.C. § 441a-1(b)(1).

III. RECOMMENDATION

Find probable cause to believe that DeRossett for Congress and Lori Jean Lobbestael, in her official capacity as treasurer, violated 2 U.S.C. § 441a-1(b)(1) and 11 C.F.R. § 400.21(b).

11/21/06
Date

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